

*In the Matter of Christopher Arciniegas, Police Officer,
Little Egg Harbor Township*
DOP Docket No. 2004-3657
(Merit System Board, decided July 14, 2004)

Little Egg Harbor Township requests that the provisions of *N.J.A.C.* 4A:4-7.1A(c) be relaxed in order to process the Intergovernmental Transfer of Christopher Arciniegas from the title of Campus Police Officer, Stockton State College, to the title of Police Officer, Little Egg Harbor Township.

By way of background, the Intergovernmental Transfer Pilot Program was established, effective September 1, 1999 and running through August 31, 2000, to permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Department of Personnel. Transfers have only been considered for titles that are identical or functionally equivalent. Thereafter, the Merit System Board adopted, at its meeting on October 10, 2001, new rules and rule amendments to permit such employee movements. These rule changes took effect upon publication in the *New Jersey Register* on November 19, 2001.

Consistent with the above-noted rule changes, *N.J.A.C.* 4A:4-7.1A(c) provides, in pertinent part, that a transferred employee shall be moved to a title substantially at the same level. However, where the title to which the employee is transferring is different from that held on a permanent basis in the sending jurisdiction, the receiving jurisdiction is required to request that the Department of Personnel approve the title, based on the following criteria: 1) the titles(s) shall have substantially similar duties and responsibilities; 2) the education and experience requirement for the title(s) are the same or similar and the mandatory requirements of the new title shall not exceed those of the former title; 3) there shall be no special skills, licenses, certification or registration requirements for the new title which are not also mandatory for the former title; and 4) any employee in the former title can, with minimal training and orientation, perform the duties of the new title by virtue of having qualified for the former title. *See N.J.A.C.* 4A:4-7.1A(c)2. In short, the rules allow movement between different titles provided that the transfer meets the conditions noted above.

In the present matter, Little Egg Harbor Township sought to transfer Christopher Arciniegas from the title of Campus Police Officer at Stockton State College to the title of Police Officer. Mr. Arciniegas, Stockton State College, and Little Egg Harbor Township reached agreement as to the terms of the transfer. The agreement provides, in pertinent part, that seniority shall not be retained upon transfer, in accordance with *N.J.A.C.* 4A:4-7.4(b). However, in the absence of rule relaxation, the Office of Intergovernmental Services would be unable to process this request to transfer on the basis that the transfer involves a change to a functionally dissimilar job title. It is also noted that Mr. Arciniegas received a regular appointment to the title of Campus Police Officer on May 29, 2004 and is currently serving his working test period.

In support of its request to the Merit System Board, Glenn Miller, Chief of Police, Stockton State College, states that Mr. Arciniegas patrols the college campus as well as the contiguous roadways of the college. His duties include motor vehicle stops, pedestrian stops, issuance of summonses for traffic and municipal ordinance violations, and performing back-ups for other officers. Additionally, he responds to calls for service and has conducted various investigations, including those of theft and narcotics violations. Chief Miller has indicated that he highly recommends Officer Arciniegas for a position as a Police Officer with Little Egg Harbor Township. Additionally, Chief Mark Siino, Chief of Police, Little Egg Harbor Township, verifies that Mr. Arciniegas' duties as a Campus Police Officer are substantially similar to those of a Police Officer and that he has completed the Basic Training Course for Police Officers.

It is noted that the job specification for Campus Police Officer defines the job as: "Under supervision of a Sergeant, Campus Patrol, or other officer in a state college and in cooperation with municipal, county, and state law enforcement officers, provides foot and vehicular patrol security and surveillance for an entire college campus or portion thereof; does related work as required." The job specification for Police Officer defines the job as: "During an assigned tour of duty, on foot, or in an automobile, patrols a designated area to provide assistance and protection for persons, to safeguard property, to assure observance of the law, and to apprehend lawbreakers; does related work as required."

CONCLUSION

The intergovernmental transfer rules permit the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Department of Personnel. Although the terms of transfer of Mr. Arciniegas from his Campus Police Officer position with Stockton State College to Little Egg Harbor Township were agreed to by the transferring agency, the receiving agency and the transferring employee, the transfer cannot be approved by the Department of Personnel in the absence of rule relaxation on the basis that the transfer required a title change and that the duties of a Campus Police Officer are not precisely the same as those of a Police Officer.

The rules do not proscribe transfers from one title to another, however, the application of such a transfer was intended only for those titles whose functions were substantially similar. The anticipated circumstances under which these inter-title transfers would arise included movement from a State title to a local title where the title held in State service did not exist in the local service. For example, the Board permitted an intergovernmental transfer from the State title Personnel Management Analyst 2 to the local title Assistant Personnel Officer. In that case, both titles involved personnel and program administration. See *In the Matter of Frank J. Tragno, Jr., Monmouth County* (MSB, decided June 16, 1998).

While the duties of the Campus Police Officer and Police Officer titles do not precisely mirror each other, Little Egg Harbor Township and Stockton State College confirm Mr. Arciniegas' experience and police related training are substantially similar to that of a Police Officer. Moreover, Mr. Arciniegas has completed the Basic Course for Police Officers and has served as a Special Class II Officer with the City of Ocean City and the Mount Holly Police Department. It is also noted that the Merit System Board has permitted the intergovernmental transfer of employees serving in a probationary status. *See In the Matter of Charles Grover* (MSB, decided June 26, 2002).

Additionally, *N.J.S.A.* 40A:14-180 permits a State, county or municipal law enforcement agency to hire a law enforcement officer who: was serving in good standing in any State, county or municipal law enforcement department or agency; satisfactorily completed a working test period in a State law enforcement title or in a law enforcement title in a county or municipality which has adopted Title 11A, Civil Service, of the New Jersey Statutes or satisfactorily completed a comparable, documented probationary period in a law enforcement title in a county or municipality which has not adopted Title 11A, Civil Service; and was, for reasons of economy, terminated as a law enforcement officer within 60 months prior to the appointment. The legislature's rationale in enacting the statute was to save local governments the time and cost of training new employees by permitting them to hire fully trained law enforcement officers. Thus, it is well established that law enforcement officers serving in titles and positions subject to the Police Training Act, which includes both the Police Officer and Campus Police Officer titles, have received the same training. As noted above and consistent with the foregoing, Mr. Arciniegas successfully completed the Basic Course of Police Officers and has, accordingly, received the same training as a Police Officer.

N.J.A.C. 4A:4-7.1A(a) provides, in pertinent part, that an intergovernmental transfer is the movement of a permanent employee between governmental jurisdictions operating under Title 11A, New Jersey Statutes. In this matter, it is noted that the Intergovernmental Transfer Pilot Program and the rules allow movement only between identical titles or titles that are functionally equivalent. The job specifications delineate differences only in the scope of the duties between the titles of Campus Police Officer and Police Officer. Nevertheless, based on the particular circumstances presented in this case, including the staffing needs of the Township, the fact that Mr. Arciniegas successfully completed the Basic Course of Police Officers, the fact that the duties performed by Mr. Arciniegas are similar to the duties and functions of a Police Officer, ample cause exists to permit the permanent transfer of Mr. Arciniegas from Stockton State College to the Little Egg Harbor Township Police Department. Since Campus Police Officer and Police Officer duties are determined to be similar, seniority and sick leave cannot transfer into the Police Officer title.

As indicated earlier, although the duties of the Campus Police Officer and Police Officer titles do not precisely mirror each other, they are, in general, sufficiently similar. Indeed, the receiving jurisdiction essentially has determined that an interested applicant possesses the requisite qualifications for employment as a Police Officer, though serving in the Campus Police Officer title, and performs functionally similar duties. Therefore,

the Office of Intergovernmental Services should process all future requests for intergovernmental transfers of incumbents in the Campus Police Officer to the Police Officer title without the necessity of a rule relaxation from the Board, if both the sending and receiving jurisdictions agree to the intergovernmental transfer.

ORDER

Therefore, it is ordered that the request, seeking to allow the transfer of Christopher Arciniegas from Stockton State College to the Little Egg Harbor Township Police Department, be granted. Nevertheless, since the duties of the Police Officer and Campus Police Officer titles do not precisely mirror each other, Mr. Arciniegas' working test period shall commence upon appointment as a Police Officer. It is also ordered that the Office of Intergovernmental Services process all future requests for intergovernmental transfers of incumbents in the Campus Police Officer to the Police Officer title without the necessity of a rule relaxation.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.